



# House of Representatives

General Assembly

**File No. 127**

*January Session, 2015*

House Bill No. 6898

*House of Representatives, March 19, 2015*

The Committee on Children reported through REP. URBAN of the 43rd Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

## **AN ACT CONCERNING THE MARKETING OF UNHEALTHY FOODS IN SCHOOLS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1       Section 1. (NEW) (*Effective July 1, 2015*) (a) For purposes of this  
2       section, "advertising" means any oral, written or graphic statement or  
3       representation intended by a producer, manufacturer, distributor,  
4       seller or any other entity having a commercial interest in a product to  
5       promote the use or sale of such product; "brand" means any logo,  
6       word, name, symbol, mark, image, number or design used to identify a  
7       producer, manufacturer, distributor, seller or any other entity, or any  
8       goods or services offered by such entities, regardless of whether such  
9       logo, word, name, symbol, mark, image, number or design may legally  
10      qualify as a trademark; "consumer product" means any article used  
11      primarily for personal, family, household or educational purposes; and  
12      "public school" means "public school" as defined in section 10-261 of  
13      the general statutes.

14      (b) Except as provided in subsection (c) of this section, no local or

15 regional board of education shall permit any public school operating  
16 within its jurisdiction to display or otherwise feature any advertising  
17 that depicts a brand of food or beverage that does not meet the  
18 minimum nutrition standards in the National School Lunch Program  
19 and School Breakfast Program: Nutrition Standards for All Foods Sold  
20 in School as Required by the Healthy, Hunger-Free Kids Act of 2010, as  
21 described in the Federal Register of Friday, February 8, 2013.

22 (c) The provisions of subsection (b) of this section shall not apply to  
23 advertising (1) on any broadcast, digital or print media, unless such  
24 broadcast, digital or print media is produced or controlled by a local or  
25 regional board of education, a public school or the faculty or students  
26 of a public school, (2) displayed on clothing, or (3) displayed on  
27 consumer product packaging.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2015	New section

**KID**      *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

---

### ***OFA Fiscal Note***

#### ***State Impact:***

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 16 \$</b>	<b>FY 17 \$</b>
Connecticut Technical High School System	GF - Revenue Loss	Up to \$5,000	Up to \$5,000

#### ***Municipal Impact:***

<b>Municipalities</b>	<b>Effect</b>	<b>FY 16 \$</b>	<b>FY 17 \$</b>
Local and Regional School Districts	STATE MANDATE - Revenue Loss	Up to \$5,000 per district	Up to \$5,000 per district

### ***Explanation***

The bill prohibits local or regional school boards from allowing public schools in their districts, including nursery schools and grades kindergarten through 12, to display or feature advertising of a food or beverage brand that does not meet federal minimum school nutrition standards, and provides for various exemptions.

It is anticipated that this provision could result in a revenue loss to certain local and regional school districts, and the Connecticut Technical High School System. The revenue loss experienced by each district would vary greatly, depending on the size of the district, the amount of revenue they currently collect from advertising various food products, and their level of current advertising that meets the exemptions. It is anticipated that some districts may not lose any revenue, and other districts could lose up to \$5,000.

### ***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to the amount of revenue each district loses.

**OLR Bill Analysis****HB 6898*****AN ACT CONCERNING THE MARKETING OF UNHEALTHY FOODS  
IN SCHOOLS.*****SUMMARY:**

Starting July 1, 2015, this bill prohibits local or regional school boards from allowing public schools in their districts, including nursery schools and grades kindergarten through 12, to display or feature advertising of a food or beverage brand that does not meet federal minimum school nutrition standards. It exempts such advertising on (1) clothing; (2) packaging on any article primarily used for personal, family, household, or educational purposes ("consumer product"); and (3) any broadcast, digital, or print media not produced or controlled by the school board, a public school, its students, or faculty.

Under the bill, the minimum school nutrition standards are those set out in the national school lunch and school breakfast programs as required by the federal Healthy, Hunger-Free Kids Act of 2010.

EFFECTIVE DATE: July 1, 2015

**DEFINITIONS*****Advertising***

Under the bill, advertising is any oral, written, or graphic statement or representation intended by a producer, manufacturer, distributor, seller, or other entity with a commercial interest in a product to promote the product's use or sale.

***Brand***

A brand includes a logo, word, name, symbol, mark, image,

number, or design used to identify a producer, manufacturer, distributor, seller, or other entity, or any goods or services they offer, regardless of whether the logo, word, name, symbol, mark, image, number, or design may legally qualify as a trademark.

## **BACKGROUND**

### ***Healthy, Hunger-Free Kids Act of 2010***

The federal Healthy, Hunger-Free Kids Act (P.L. 111-296) authorizes funding and sets policy for the U.S. Agriculture Department's core child nutrition programs, including the school lunch and school breakfast programs; special supplemental nutrition program for women, infants, and children; summer food service program; and child and adult care food program.

### ***Related Law - First Amendment***

The U.S. Supreme Court has held that while the First Amendment protects commercial speech, such as advertising, from unwarranted governmental regulation, commercial speech does not have the same level of protection as other constitutionally guaranteed expression.

To be protected, commercial speech "must concern lawful activity and not be misleading." Courts then consider whether the (1) government has a substantial interest in regulating the speech, (2) government regulation directly furthers the government's interest, and (3) regulation is narrowly drawn so that it does only what is intended and no more (*Central Hudson Gas and Electric v. Public Service Commission of New York*, 447 U.S. 557 (1980)).

Whether certain speech is protected by the First Amendment also depends on where it takes place. Courts use a strict standard to protect speech that occurs in places considered "public forums," such as public parks and locations traditionally open to political speech and debate, and a less strict standard elsewhere.

## **COMMITTEE ACTION**

Committee on Children

Joint Favorable

Yea     8            Nay   5            (03/05/2015)